

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

IMADE ANTHONY OSARINMWIAN,)	
)	
Plaintiff,)	
)	Case Number:
v.)	4:11-cv-4187-KOB-PWG
)	
IMMIGRATION AND CUSTOMS)	
ENFORCEMENT SERVICES and PHIL)	
MILLER, Field Office Director of)	
Immigration Enforcement Services,)	
)	
Defendants.)	

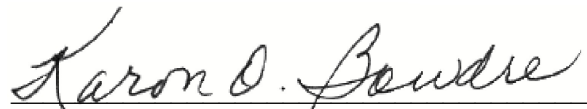
MEMORANDUM OPINION

Imade Anthony Osarinmwain (“plaintiff”), *pro se*, a Nigerian citizen detained by the United States Department of Homeland Security /Immigration Customs Enforcement (“ICE”) filed this action. (Doc. 1). The magistrate judge granted the plaintiff leave to proceed *in forma pauperis*. (Doc. 7). In his governing amended pleading (Doc. 4), the plaintiff complains that immigration officials lost or otherwise failed to process “I-485” applications he filed in 1985 and 1986, seeking an adjustment of his immigration status to that of lawful permanent resident. He claims that the government’s failure to process and grant those applications violates the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, and its implementing regulations; the Administrative Procedures Act, 5 U.S.C. § 551 *et seq.*; and his rights under the Due Process Clause of the Fifth Amendment. His pleadings also contain a petition asking this court to review an order of the Board of Immigration Appeals (“BIA”) sometime in October 2011, ordering plaintiff to be deported from the United States. The plaintiff urges that the “decision of the [BIA] is incorrect and must be reversed ...”

On January 24, 2012, the magistrate judge entered findings and a recommendation to dismiss the action *sua sponte* for lack of subject-matter jurisdiction. (Doc. 8). Although the government has not filed a motion to dismiss or otherwise responded to the plaintiff's pleading, plaintiff filed a document on February 10, 2012, captioned "Petition in Response to Government, Motion to Dismiss." (Doc. 15). The court will construe that filing as objections to the magistrate judge's findings and recommendation, made pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b)(2), Fed. R. Civ. P. Those objections raise no basis for jurisdiction in this court.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the findings and recommendation and the objections filed by the plaintiff, the court finds that the magistrate judge's findings are due to be ADOPTED and ACCEPTS his recommendation. To the extent that the plaintiff's filing of February 10, 2012 (Doc. 15) is construed as interposing objections to the report and recommendation, the court OVERRULES such objections. As a result, this action is due to be DISMISSED WITHOUT PREJUDICE for lack of subject-matter jurisdiction. A separate final judgment will be entered.

DONE & ORDERED this the 23rd day of February 2012.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE